



### Public Participation in Climate and Environment-related Frameworks

As reflected in the Paris Agreement and the latest Special Report of the IPCC, **public participation and access to information in climate-related decision-making** are keys to ensuring effective implementation of climate action. Associating communities, indigenous peoples and civil society to the planning and implementation of mitigation and adaptation action promotes public support for climate policies, contributes to higher ambition, and improves the effectiveness and resilience of these actions.

The UNFCCC Parties have committed to promote the procedural rights of the public and civil society in climate policy through international frameworks, including Agenda 2030 and the UNECE and UN-ECLAC legal instruments on Public Participation in Environmental Decision-Making.

This note provides an overview of opportunities for Parties to enhance public participation and access to information in climate policies through outcomes of the COP-24. This COP offers the opportunity to Parties to consider in more specific terms how public participation and access to information can inform the implementation of the Paris Agreement and how to reflect this dimension in the implementation guidelines. This note does however not claim comprehensiveness as these principles are relevant to a broader range of agenda items.

The UNFCCC provides a commitment to encourage the widest participation of NGOs in the climate process (article 4.1(i)) as well as to promote and facilitate public access to information and public participation in climate policies (article 6). The Paris Agreement commits Parties to further cooperate to enhance public participation and access to information (article 12).

These provisions build upon a long-established recognition of the critical nature of procedural rights in environmental decision-making. **Principle 10 of the 1992 Rio Declaration** stresses that “environmental issues are best handled with participation of all concerned citizens, at the relevant level”. Further guidance regarding the implementation of this principle has been developed by international environmental institutions (such as **the UNEP Bali Guidelines** on Principle 10) and by International Human Rights institutions. **Agenda 2030** builds on the renewed commitment of states to participatory and transparent policies, respect for human rights, the empowerment of all groups of societies, and gender equality. SDG Target 16.7 in particular stresses the need to “ensure responsive, inclusive, participatory and representative decision-making at all levels”.

### *Regional Instruments on Public Participation in Environmental Decision-Making*

47 UNFCCC Parties from Europe and Central Asia are also Parties to the **Aarhus Convention** on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (with one African State – Guinea Bissau – having recently notified the UNECE Secretariat of its intent to accede to the Convention – demonstrating the international relevance of the instrument). Article 3.7 of the Convention provides a legally binding obligation for all of its Parties to “promote the application of the principles of this Convention in international environmental decision-making processes and within the framework of international organizations in matters relating to the environment”. The scope of this obligation has been

further elaborated through the adoption by the MOP of the Aarhus Convention of a set of guidelines on Promoting the Application of the Principles of the Aarhus Convention in International Forums ("**Almaty Guidelines**"). This guidance emphasizes the importance of promoting public participation and access to information both in relation to the modalities and procedures of intergovernmental processes but also to their substantive outcomes, including work programmes, projects, and decisions adopted by these processes.

Additionally, 24 UNFCCC Parties from Latin America and the Caribbean adopted, in March 2018, a Latin American and Caribbean Convention on information, participation, and justice in environmental matters (the **Escazú Agreement**). The Agreement has since then been signed by

### Linkages between Public Participation and Effective Climate Policies

The **IPCC Special Report on 1.5°C** highlights how public participation contributes to effective climate action. The report stresses that discussing [climate action] plan with stakeholders and civil society, including citizens and right of participation for minorities, and having them provide input and endorse it, is found to increase the likelihood of success". (chap. 4)

In relation to adaptation, the IPCC report stresses that "many strategies for sustainable development enable transformational adaptation for a 1.5°C warmer world, provided attention is paid to reducing poverty in all its forms and to promoting equity and participation in decision-making (medium evidence, high agreement)." (chap. 5)

These findings are also reflected in the **Synthesis Report of the Preparatory Phase** to the Talanoa Dialogue. In the section addressing the "how do we get there" question, the report includes the following suggestions:

- Governments and other stakeholders could step up efforts to increase the awareness and participation of different groups in action to combat climate change, while ensuring a fair representation of women, indigenous communities, young people and other groups that are often underrepresented;"
- Civil society organizations could call for, and actively participate in, national dialogues, debates and policy processes on climate ambition;
- Civil society organizations could actively work with governments on the formulation of bold policy that is ambitious and takes into consideration the interests and needs of vulnerable populations.

sixteen States from the region. The Agreement stresses the importance of the growing awareness in international forums regarding the need for public participation in environmental decision-making. It also provides a commitment to promote public participation in the context of international forums and negotiations on environmental matters, including at the domestic level in matters related to these forums. The Agreement also stresses the importance of capacity building and of the effective protection of environmental defenders.

## Promoting Public Participation and Access to Information in the Context of the Implementation Guidelines of the Paris Agreement

As the implementation guidelines to be adopted at the COP-24 will inform in the long-term the implementation of the Paris Agreement at the national level, the integration of access to information and public participation in these guidelines is critical to ensure public support for climate policies and the effective implementation of climate actions under the Agreement.

### *Nationally Determined Contributions (APA – item 3)*

The planning of the NDCs offers an opportunity to promote a dialogue at the national level regarding the importance of ambitious action and support and to identify critical leverages and opportunities for domestic policies. Many INDCs submitted prior to the Paris Conference – or NDCs revised since 2015 – resulted from multi-stakeholder consultations. **Such consultations are critical to ensure that the contributions are truly “nationally determined”**. Several countries have suggested that the guidance related to information necessary for clarity, transparency and understanding (ICTU) includes information regarding stakeholder consultations and the participation of indigenous peoples and local communities. This proposal builds on precedents in the UNFCCC regime: Least Developed Countries were for instance requested to describe stakeholder consultations held in the context of the preparation of their National Adaptation Programmes of Action.

The **invitation or request for Parties to include information related to these aspects of the planning of their NDCs when communicating their NDCs to the UNFCCC** would signal the importance of a transparent and participatory preparation of these contributions. It would also contribute to enhance the sharing of good practices regarding the consultation of stakeholders. The latest reflection note by the co-facilitators includes such an invitation in the context of the ICTU.

### *Adaptation Communications (APA – item 4)*

The Parties affirmed in the Paris Agreement that adaptation measures must be integrated with social and environmental policies. Article 7.5 of the Paris Agreement emphasizes in particular that adaptation action should follow a gender-responsive, participatory, and fully transparent approach taking into consideration vulnerable groups, communities, and ecosystems, and should be based on the best available science and traditional and indigenous knowledge.

To ensure that the Adaptation Communications promote the vision defined in this provision, governments should be requested to **provide information regarding community-based adaptation and local communities’ involvement** (see option 1 in the Annex to the reflection note produced in October 2018).

### *Transparency Framework (APA – item 5)*

The transparency framework would contribute more effectively to the comprehensive implementation of the Paris Agreement if it would request Parties to **provide information regarding their domestic processes seeking to guarantee public participation in decision-making**. The reflection note produced in October 2018 includes relevant wording in the context of national circumstances and institutional arrangements (section C.1), impacts and adaptation (sections D.1, D.4 and D.9), and means of implementation needed and received (F.7 and F.8).

Additionally, civil society could also play an **active role in the Facilitative, Multilateral Consideration of Progress** (FMCP) to contribute to the objectives of the transparency framework. Several international frameworks recognize the added value of enabling non-governmental organizations to participate actively to reporting and transparency mechanisms. In this context, the options enabling an active role of observer organizations during the FMCP should be retained (section H.3).

### *Global Stocktake (APA – item 6)*

The Global Stocktake (GST) is called to play a critical role to mobilize climate action by all Parties and stakeholders and to increase support for climate ambition. To perform these functions effectively and enable a comprehensive review of progress building on all expertise available,

the **modalities for the GST should offer opportunities for civil society and observer organizations to provide input and to participate effectively at all stages of the GST**. The GST must build upon the experience gained this year through the Talanoa Dialogue with regards to the inclusiveness and transparency of the process. The reflection note produced in October 2018 contains several bracketed options recognising the importance of the active participation of observer organisations throughout the relevant stages of the process (paras. 13, 26, 47 and 57).

### *Article 6 Mechanisms (SBSTA – item 11)*

Guaranteeing access to information, consultation with local stakeholders, and access to remedy is particularly critical in the context of the mechanisms established under article 6 of the Paris Agreement. The absence of sufficient guidance regarding the nature of these participatory processes in relation to the Clean Development Mechanism resulted in many projects being implemented without the full and meaningful consultation of the communities directly impacted by these projects or any avenue for seeking redress if they were harmed by a CDM project. The "Sustainable Development Mechanism" (SDM) established under article 6.4 of the Paris Agreement must learn from these shortcomings and guarantee effectively, among other principles, the procedural rights of local communities, taking the stronger sets of safeguards developed, for instance, in the context of REDD+ as a starting point.

The current joint reflection note on article 6.4 includes critical references to host countries' responsibilities to report on how the activities fulfilled requirements for **conducting stakeholder consultation** (para. 48(m)) and that a general requirement for mitigation activities includes conducting local stakeholder consultation (para. 70(f)). It also includes necessary references to a **grievance redress mechanism** to provide access to remedy when harms occur (paras. 89-90). However, to ensure that communities have an adequate avenue for access to redress, the final text should reflect throughout that this grievance mechanism or process be **independent, rights-based, accessible, equitable, transparent, legitimate, and efficient** (as currently expressed in para. 38). Including these aspects is critical to guarantee that the procedural rights of local communities are respected.

## **Further enhancing the Participation of Indigenous Peoples in the UNFCCC Process**

### *Local Communities and Indigenous Peoples Platform (SBSTA - item 7)*

In Paris, Parties agreed to establish a platform for the exchange of experience and sharing of good practices related to indigenous and local knowledge. The operationalization of this platform was initiated at COP-23 with the adoption of a decision recalling that Parties should, when taking action to address climate change, respect, promote, and consider their respective obligations on the rights of indigenous peoples and local communities, and emphasizing the role of indigenous peoples in achieving the goals set in the Paris Agreement. The Parties further recommended that the platform builds on the **principles of effective participation of indigenous peoples**; equal status of indigenous peoples and Parties, including in leadership roles; self-selection of indigenous peoples' representatives in accordance with indigenous peoples' own procedures; and adequate funding to enable the functions of the Platform.

The SBSTA 49 is mandated to consider the further operationalization of the platform, including the establishment of a facilitative working group and the modalities for the development of a workplan. These negotiations offer a unique opportunity to ensure that the voices of indigenous peoples are more effectively reflected in the UNFCCC process and to build on the good practices of other international forums.